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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

January 14, 1999

SUMMARY OF EX PARTE PRESENTATION

Magalie Roman Salas
Secretary
Federal Communications Commission
445 - 12th Street, SW - TW-A325
Washington, D.C. 20554

Re: Telecommunications Carriers' Use of Customer Proprietary Information
CC Docket No. 96-115

Dear Ms. Roman Salas:

On January 13, 1999, the undersigned and Penny M. Burke, Director-Directory Services and Operator Service Support, Cincinnati Bell (CinBell), and David L. Meier, Director Regulatory Affairs, CinBell, met with Doug Galbi, Jordan Goldstein, Bill Kehoe and Lisa Zaina of the Common Carrier Bureau concerning the matter of local exchange carrier (LEC) provision of subscriber list information (SLI). A summary of the points made during this meeting is presented below.

1. The FCC should neither prescribe a rate nor set a rate ceiling for LEC provision of SLI. SLI should be provided at market-based rates. The range of just and reasonable rates that exists is far too wide to, as a practical matter, allow the FCC to arrive at a single rate or rate range that is fully compensable for all LECs. While the record in this proceeding reflects that at least one LEC provides SLI at or about \$.04 per listing, other LECs offer SLI at equally reasonable rates that are considerably higher. By way of illustration, the FCC staff was provided with a copy of the attached California state tariff currently in effect for the Roseville Telephone Company, which was approved by the California Public Utility Commission, that provides for the provision of SLI by Roseville at \$520.00 for each 1,000 listings or fraction thereof (\$.52 per listing). The staff was advised that other mid-size members of the United States Telephone Association (USTA) provide SLI at, for example, \$.28 per listing (Century Telephone Company) and \$.314 per listing (TDS Telecom). The identified rates for SLI are illustrative of the fact that reasonable SLI rates do widely vary among LECs but were not offered to imply that they establish the bounds for reasonable rates.

2. Although USTA does not advocate for the prescription of SLI at the state level, it is nonetheless apparent that some states already require the tariffing of SLI rates. Consequently,

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the prescription of SLI rates by the FCC creates the likelihood of conflict between some state commissions and the FCC. USTA believes that Section 222 of the Communications Act does not require the FCC to prescribe SLI rates and that the FCC should avoid creating potential conflicts with the states on this matter by refraining from prescribing SLI rates. To the extent that there may be a case-specific situation where a SLI rate is believed to be unreasonable or discriminatory, an aggrieved party would have recourse to bring that matter to the FCC's attention informally, or formally through the FCC's Section 208 complaint process. The FCC is not compelled by Section 222 to prescribe SLI rates or determine a range of acceptable rates. It can ensure compliance with the mandates of Section 222(e) through the adjudication of LEC-specific complaints.

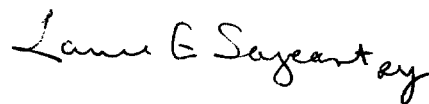
3. LECs process, handle and store SLI in a variety of ways. Some LECs have their directories published by internal work groups, and other LECs have their directories published by separate affiliates or unaffiliated third parties. Also, a LEC's white page and yellow page directories may not be published by the same entity. A LEC may not have primary advertising classification information in its SLI database. Accordingly, cost elements (as well as the actual cost for the same element) can vary by LEC, and sorting capabilities will vary by LEC.

4. The production of specialized lists of SLI or sorting SLI along parameters that are not used by the LEC for its own business may be impossible. If the specialized list or sort can be provided, doing so generates additional costs for a LEC that must be recovered.

5. The provision of SLI on an unbundled basis means that independent publishers can obtain SLI without having to purchase other unwanted products or services. Section 222(e) does not create an obligation on the part of a LEC to sort or otherwise manipulate listings on demand unless not doing so would be discriminatory.

Pursuant to Commission Rule 1.1206(b)(2), an original and one copy this letter are being provided to you for inclusion in the public record for the above-referenced proceeding. Please contact me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence E. Sarjeant".

Lawrence E. Sarjeant
Vice President Regulatory Affairs & General Counsel

cc: D. Galbi
J. Goldstein
B. Kehoe
L. Zaina

ACCESS SERVICE

10. Directory Services10.1 Telephone Directory Reproduction Rights

(C)

10.1.1 Applicability

(N)

Applicable to reproduction rights of Utility's customers listed in the alphabetical sections of Roseville Telephone Directory.

10.1.2 General Description

This offering grants a publisher a license, as described herein, to reproduce in a general directory, listed names, addresses and telephone numbers of this Utility's subscriber's that are or will be published in the Utility's telephone directories. Such reproduction rights do not include names, addresses, telephone numbers, art work, headings and other materials contained in this Utility's classified "yellow page" directory and directory sections or other utilities customers listed in this Utility's directory. No other rights are granted to the publisher.

10.1.3 Regulations(A) General

- (1) This offering is limited to publishers engaged in the business of publishing a general directory for general public use and distribution and may not be used by such publishers for any other purpose.

A "general directory" is defined as a publication printed on paper and distributed periodically to the public which contains a classified compilation of a number of individuals or concerns together with their respective telephone numbers and advertisements regarding their products or services. These directories may also contain an associated compilation of telephone customer's names, addresses and telephone numbers.

- (2) Reproduction rights in this offering are nonassignable and nontransferable by publishers, other than through publication of a directory.

(N)

(Continued)

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ACCESS SERVICE

10. Directory Services (Cont'd)10.1 Telephone Directory Reproduction Rights (Cont'd)

(N)

10.1.3 Regulations (Cont'd)(A) General (Cont'd)

- (3) The Utility assumes no responsibility or liability for any error in the information furnished. The publisher agrees to accept the listings on an "as-is" basis with all faults, errors and omission, if any, and the Utility does not warrant the accuracy of the information contained therein. The Utility makes no warranty, express or implied with respect to any listings or the information contained therein, including but not limited to warranties for merchantability or fitness for a particular purpose. The publisher agrees to release the Utility from any and all liability for damages which may arise due to any errors and omissions in the Utility's listings.
- (4) The Utility reserves the right to discontinue any of its directories in whole or part, to rearrange or change any such directory in whole or in part or to split or combine one or more of such directories as it deems necessary in the ordinary conduct of its business.
- (5) The publisher shall furnish a copy of any published directory containing any listing information furnished hereunder to the Utility within 10 days following publication.
- (6) A standard format of the listing information will be established by the Utility and provided to the publisher. The Utility reserves the right to modify this format.
- (7) The publisher is prohibited from using the listings provided it under this tariff to compile lists for the purpose of selling, renting, or otherwise providing copies of listings to any other person or corporation including, but not limited to, publisher's customer's affiliates, contractors, employees agents or customers.

(N)

(Continued)

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ACCESS SERVICE

10. Directory Services (Cont'd)10.1 Telephone Directory Reproduction Rights (Cont'd)

(N)

10.1.3 Regulations (Cont'd)(A) General (Cont'd)

- (8) Publisher shall not make any representation to the public, prospective advertisers or others, expressed or implied, written or oral, to the effect that Publisher (and its publications) is the same as, a part of, or associated with the Utility or Utility's Directory Company.
- (9) The Utility may refuse to furnish reproduction rights thereafter to any publisher who fails to comply with these provisions.

(B) Rate Regulations

- (1) Each listing or line of information provided to the publisher will be counted to determine the charge for each 1,000 listings or fraction thereof. This charge applies separately to each separate general directory containing any listing information furnished by the Utility. The charge for reproduction rights applies only once for each tape sent containing the listing information.
- (2) Base files will contain the most recent listings available in the Utility Directory Listings data base. Charges are set forth in 17.4.5(A) following.
- (3) Charges for the estimated number of listings are payable in advance or the Utility may, at its discretion, accept a guarantor to secure payment. The Utility, within 30 days of providing the listings to the publisher, shall:
 - (a) Refund or bill, as appropriate, any difference between the estimated amount collected and the applicable charge, or,
 - (b) Where a guarantor has been accepted, determine the applicable charge, advise the guarantor of such applicable charge and bill the publisher that amount.

(N)

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ACCESS SERVICE

10. Directory Services (Cont'd)10.1 Telephone Directory Reproduction Rights (Cont'd)

(N)

10.1.3 Regulations (Cont'd)(B) Rate Regulations (Cont'd)

- (4) If the publisher cancels the order prior to the date the Utility is scheduled to provide the listings and the Utility has performed any work or incurred any expense in connection therewith, the Utility will charge the estimated cost incurred not to exceed the estimated charge for the order.
- (5) If the publisher cancels the order on or after the date the Utility is scheduled to provide the listings, all charges shall apply.
- (6) For purposes of this Schedule, each name, address and telephone number of a listed party shall be counted as one listing. If additional lines of information appear, each such line shall be counted as a separate additional listing. Where additional information appears as part of a listed party's name or address, the Utility at its option may count same as two listings.
- (7) A miscellaneous service order charge as described in section 5.4.2 preceding will apply in addition to the charges set forth in 17.4.5(A).
- (8) Emergency agencies, i.e. fire departments or police departments, requesting listings for the purpose of emergency preparedness will be exempt from the charges set forth in 17.4.5(A).

(N)

10.2 Directory Assistance Listing Information Service (DALIS)

(C)

10.2.1 General Description

(N)

Directory Assistance Listing Information Service (DALIS) grants a license, as described herein, to third parties (CLCs - Competitive Local Carriers, Local Exchange Carriers, Interexchange Carriers, and other parties) to utilize the listed names, addresses and telephone numbers that appear in the Utility's telephone directory assistance data base for the purpose of providing directory assistance service.

(N)

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ACCESS SERVICE

10. Directory Services (Cont'd)10.2 Directory Assistance Listing Information Service (DALIS) (Cont'd)

(C)

10.2.2 Regulations

(N)

(A) General

- (1) The listing information will be provided in data files comprised of an initial file (the "basefile") via tape, and daily updates via electronic file transfer. A transfer protocol agreed to by the Utility will be used. DALIS providers must supply the required data network.
- (2) A standard format of the listing information will be established by the Utility and provided to the DALIS provider. The Utility reserves the right to modify this format.
- (3) The Utility will not provide any listing information that its subscriber(s) has requested be non-published and/or not released.
- (4) Rights in this offering are nonassignable and nontransferable by the DALIS providers other than through the provisioning of directory assistance.
- (5) Publisher shall not make any representation to the public, prospective advertisers or others, expressed or implied, written or oral, to the effect that Publisher (and its publications) is the same as, a part of or associated with the Utility or Utility's Directory Company.
- (6) The Listed information provided by this offering may only be used for the purpose of providing directory assistance to the DALIS customers.
- (7) The DALIS providers shall indemnify, hold harmless, and defend the Utility from and against any cost, damage, expense (including but not limited to reasonable attorney's fees and expenses) or liability arising in any manner out of any demand, claim, suit or judgment for damages or injuries however caused, which may arise out of the provider's use of the listings furnished under this Schedule.

(N)

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ACCESS SERVICE

10. Directory Services (Cont'd)10.2 Directory Assistance Listing Information Service (DALIS) (Cont'd)

(C)

10.2.2 Regulations (Cont'd)

(N)

(A) General (Cont'd)

- (8) The Utility assumes no responsibility or liability for any error in the information furnished. The DALIS provider agrees to accept the listings on an "as-is" basis with all faults, errors and omission, if any, and the Utility does not warrant the accuracy of the information contained therein. The Utility makes no warranty, express or implied with respect to any listings or the information contained therein, including but not limited to warranties for merchantability or fitness for a particular purpose. The DALIS provider agrees to release the Utility from any and all liability for damages which may arise due to any errors and omissions in the Utility's listings.
- (9) The listings shall at all times remain the sole property of the Utility. The DALIS provider is prohibited from selling, renting, or otherwise providing copies of listings to any other person or corporation including, but not limited to, provider's affiliates, contractors, employees, or agents.
- (10) The Basefiles will contain the most recent listings available in the Utility directory listing data base.
- (11) Daily updates for listings are available via electronic transfer. Updates will include indicators for type of activity, either adds, changes or deletes.
- (12) The Utility may request return of the listings that have been provided or proof of their destruction and refuse to furnish daily updates to any DALIS provider who fails to comply with the provisions set forth in this schedule.

(N)

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ACCESS SERVICE

10. Directory Services (Cont'd)10.2 Directory Assistance Listing Information Service (DALIS) (Cont'd)

(C)

10.2.2 Regulations (Cont'd)

(N)

(B) Rate Regulations

- (1) Rates and Charges for DALIS are set forth in 17.4.5(B) following.
- (2) The Utility may require the DALIS provider to make an advance payment of the estimated per listing charges for the basefile at the time the order is taken. The Utility shall refund or bill, as appropriate, any difference between the estimated amount collected and the actual charge.
- (3) Daily updates will be billed in advance on a monthly basis.
- (4) If the DALIS provider cancels the order prior to the date the Utility is scheduled to provide the listings and the Utility has performed any work or incurred any expense in connection therewith, the Utility will charge the estimated cost incurred not to exceed the estimated charge for the order.
- (5) If the DALIS provider cancels the order on or after the date the Utility is scheduled to provide the listings, all charges shall apply.
- (6) The Utility shall count and bill for all listings provided to the DALIS provider, whether or not the provider actually reproduces such in provider's directory assistance.
- (7) For purposes of this Schedule, each name, address and telephone number of a listed party shall be counted as one listing. If additional lines of information appear, each such line shall be counted as a separate additional listing. Where additional information appears as a part of a listed party's name or address, the Utility at its option may count same as two listings.
- (8) A miscellaneous service order charge as described in Section 5.4.2 preceding will apply in addition to the non-recurring charges set forth in 17.4.5(B).

(N)

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ACCESS SERVICE

17. Rates and Charges (Cont'd)

17.4 Other Services (Cont'd)

17.4.4 Special Facilities Routing of Access Services

(A) Diversity

For each service provided in accordance with 11.1.1 preceding, the rates and charges will be developed on an individual case basis.

(B) Avoidance

For each service provided in accordance with 11.1.2 preceding, the rates and charges will be developed on an individual case basis.

17.4.5 Directory Services

(N)

(A) Telephone Directory Reproduction Rights

	<u>Recurring Charge</u>	<u>NonRecurring Charge</u>
(1) Reproduction rights - each basefile tape	--	\$ 125.00
(2) Each 1,000 listings or fraction thereof which are reproduced	--	520.00

(B) Directory Assistance Listing Service

(1) Basefile Tape	--	125.00
(2) Each 1,000 listings or fraction thereof included in the basefile tape	-	520.00
(3) Daily updates (electronic transfer) - Per month	\$ 3,000.00	--

(N)

Material omitted now located on Original Sheet 331.1.

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